



Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

May 24, 1979

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mr. William J. Ekstrom, Jr.
Deputy County Attorney
Mohave County Attorney's Office
Mohave County Courthouse
Kingman, Arizona 86401

Re: I79-139 (R79-067)

Dear Mr. Ekstrom:

We have reviewed your opinion letter of March 8, 1979 to Max B. Hinton, Superintendent of Mohave Valley Elementary District. The following is a revision of that opinion.

The issue involved is whether the Mohave Valley Elementary District must accept students residing in the Topock Elementary School District, a transporting district having no school facilities.

Your opinion concludes that acceptance of such students is mandatory if the county school superintendent issues a certificate of educational convenience. A.R.S. § 15-304(A) provides:

A pupil precluded by distance or lack of adequate transportation facilities from attending a common or high school in the district or county of his residence or who resides in unorganized territory may apply to the county school superintendent for a certificate of educational convenience. If it appears to the superintendent that it is not feasible for the pupil to attend the common or high school in the district or county of residence, he shall issue a certificate authorizing the pupil to attend a common or high school in an adjoining district or county, whether within or without the state. (Emphasis added)

Mr. William J. Ekstrom, Jr.
May 24, 1979
Page 2

The above statute presumes that there is at least one facility in the district of residence and authorizes issuance of a certificate of educational convenience if the county school superintendent determines that distance and lack of adequate transportation make it infeasible for a student to attend his district school. This statute was not intended to permit an organized school district, by failing to provide facilities, to place the responsibilities for educating its students on an adjacent district. Therefore, we conclude that a certificate of educational convenience could not properly be issued for the Topock students.

The appropriate remedy, if Topock Elementary District fails to provide school facilities and cannot find another district willing to accept its students, is either for the district to merge with another district or to dissolve the district. See A.R.S. §§ 15-403, 15-409.

Sincerely,



BOB CORBIN
Attorney General

BC/mm

MOHAVE COUNTY ATTORNEY

MOHAVE COUNTY COURTHOUSE ■ KINGMAN ■ ARIZONA 86401



D. B. BABBITT
County Attorney

OPINION NO.
79-7

March 8, 1979

R79- 067

Max B. Hinton
Mohave Valley Elementary District Number 16
P. O. Box 5070
Mohave Valley, Arizona 86440

QUESTION:

Is the Mohave Valley Elementary District Number 16 Board of Trustees required to accept students from Topock District (a transporting district without an operating school)?

ANSWER:

See body of opinion.

Although this question has been adequately addressed in several recent Attorney General opinions, I believe that it would be worthwhile to review those precepts in light of your particular fact situation.¹

A.R.S. §15-302(B) permits the governing board of the district to admit children who reside in the state, but not in the district, "under such terms as it prescribes." This section affords the district considerable latitude in developing policies concerning extra-district admissions, e.g. payment of tuition and average daily membership.²

The district may also enter into an agreement with another district to exchange students, without payment of tuition, for the pupils' convenience and for reasons deemed sufficient by the governing board. A.R.S. §15-449(A)(1).

¹See for example Attorney General Opinion Numbers 78-42, 78-46 and 78-238.

²The district should be careful, however, to avoid policies which may result in de facto racial segregation in either the receiving or sending district.

Max B. Hilton
March 8, 1979
Page Two

R79- 067

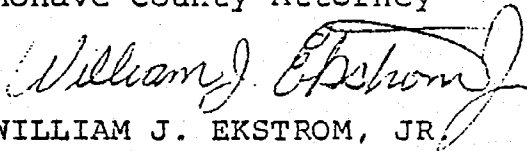
The district, however, is required to admit children residing in another district under certain circumstances described in A.R.S. §15-304 and §15-449.

A.R.S. §15-304(A) provides for the issuance of a certificate of educational convenience if it appears to the County School Superintendent that it is not feasible for a pupil to attend school in his district of residence. The statute specifically addresses situations where distance, or lack of transportation, make in-district attendance infeasible or where the pupil resides in an unorganized territory. It would seem, however, that lack of a school facility is sufficient reason for issuance of a certificate and I understand that this has been the practice in the past. Upon presentation of the certificate, A.R.S. §15-449(A)(1) requires the district to admit the pupil. The district of actual attendance is entitled to payment of tuition in accordance with A.R.S. §15-449(D) while the district of residence will be credited for average daily membership pursuant to A.R.S. §15-304(A)(1).

This opinion is not meant to treat extraordinary cases and was prepared to generally advise the district that they must accept students from the Topock district who present a certificate of educational convenience. If you have any further question concerning this matter, please let me know.

Very truly yours,

D. B. BABBITT
Mohave County Attorney


WILLIAM J. EKSTROM, JR.
Deputy County Attorney

WJE:jf